LIBEL AND SLANDER—PRIVILEGED COMMUNICATIONS—STATEMENT AS TO CREDIT PUBLISHED TO MEMBERS OF MERCHANTS' PROTECTIVE ASSOCIATION.—The Perry Merchants' Protective Association was declared in its constitution and by-laws to be organized for the protection of its members against "those who live on the confidence of humanity, and against loss by reason of extension of credit to those unworthy of trust." The defendant caused to be published among the other members the name of the plaintiff as one who had failed to pay his account. The plaintiff sued for libel, claiming that the publication by innuendo charged him with belonging to the objectionable classes mentioned. *Held,* that the innuendo was not supported by the communication, since the latter related merely to the plaintiff's financial ability; and that the communication to other members of facts regarding such ability was privileged. *Putnal v. Inman* (1918, Fla.) 80 So. 316.

A publication as to the financial stability of possible customers made by an association of traders—or others interested in extending credit—in order to protect its members, may be privileged. *Woodhouse v. Powles* (1906) 43 Wash. 617, 86 Pac. 1063; *Barr v. Musselbrugh Merchants' Assn.* (1912, Ct. Sess.) 49 Sc. L. R. 102; *McDonald v. Lee* (1914) 246 Pa. 253, 92 Atl. 135. But where the purpose is to coerce payment of old debts—which may be in dispute—there is, very properly, no privilege. *Masters v. Lee* (1894) 39 Neb. 574, 58 N. W. 222. The association's agreement often helps to determine into which class a given publication falls. See *Weston v. Barnicoat* (1900) 175 Mass. 454, 56 N. E. 619 (no sales to be made to a reported delinquent until payment; publication libelous); *Reynolds v. Plumbers' Assn.* (1902) 169 N. Y. 614, 62 N. E. 1100 (delinquent to be made to pay cash before delivery; publication privileged). The principal case is clearly sound in finding privilege, where the agreement was simply that if a member gave credit to a delinquent he would assume the latter's debts to other members. In determining the extent of the innuendo, and so the character of the publication, the courts are also guided by the apparent purpose of such publication. See *Muetze v. Tuteur* (1890) 77 Wis. 236, 46 N. W. 123; *State v. Armstrong* (1891) 106 Mo. 395, 16 S. W. 604 (bad debt collection agency; held to impute dishonesty as well as failure to pay). Or by the manner of it. See *Thompson v. Adelberg & Berman* (1918, Ky.) 205 S. W. 558 (placarding debtor's dwelling; libel); *Muetze v. Tuteur, supra; State v. Armstrong, supra* (blatant envelopes: "Bad Debt Collection Agency"; libel). Or even by the presence or lack of mutuality of interest between publisher and publishee. So *McDonald v. Lee, supra.* But falsity would seem to suffice in itself to make the publication libelous. *Werner v. Vogeli* (1901) 10 Kan. App. 536, 63 Pac. 607. There has been some tendency to protect traders very rigorously, making any imputation of failure to pay their debts libel *per se.* See *Fry v. McCord* (1895) 95 Tenn. 678, 33 S. W. 568. But this tendency seems to be yielding to-day to the desirability of sounder credit extension; *cf.* in this connection also the modern American doctrine on mercantile agency reports: 12 Am. & Eng. Ann. Cas. 149, note.

LIBEL AND SLANDER—PRIVILEGE OF COUNSEL IN PARDON HEARING.—The plaintiff was instrumental in securing the conviction of the defendant's client on a charge of abortion. In a hearing before the Governor for a pardon, the defendant attacked the character of the plaintiff. The plaintiff brought an action for libel and the defendant claimed an absolute privilege as counsel. *Held,* that the defendant's privilege was qualified as the proceeding was not strictly judicial. *Andrews v. Gardiner* (1918, N. Y.) 121 N. E. 341.

The prevailing rule in the United States extends to attorneys conducting judicial proceedings an absolute immunity from liability in libel and slander for words, otherwise defamatory, published in the course of such proceedings, pro-

vided the statements are pertinent and relevant to the questions involved. *Youmans v. Smith* (1897) 153 N. Y. 214, 47 N. E. 265; *Maulsby v. Reifsnider* (1888) 69 Md. 143, 14 Atl. 505; *Lawson v. Hicks* (1862) 38 Ala. 279, 81 Am. Dec. 49. A few courts have afforded the same immunity when the statements were made in proceedings for the disbarment of an attorney, in proceedings before the Interstate Commerce Commission, and before the Governor in extradition proceedings. *Brown v. Globe P. Co.* (1908) 213 Mo. 611, 112 S. W. 462; *Duncan v. Atchison, etc., R. Co.* (1896) 72 Fed. 808, 19 C. C. A. 202; *Youmans v. Smith, supra.* And affidavits pertaining to the moral character of an applicant for admission to the bar, when filed in obedience to a mandate of the court, have been held absolutely privileged. *Baggett v. Grady* (1911) 154 N. C. 342, 70 S. E. 618. And the remarks of a college president before the board of trustees which was investigating charges against his character were held absolutely privileged on the ground that the board was properly functioning like a court of law. *Gattis v. Kilgo* (1901) 128 N. C. 402, 38 S. E. 931. However, the decision of the instant case would seem to be in harmony with the tendency of the courts not to extend the scope of absolute privilege in libel to include proceedings which are not strictly judicial, although they are official and public. *Bingham v. Gaynor* (1911) 203 N. Y. 27, 96 N. E. 84; *Blakeslee v. Carroll* (1894) 64 Conn. 223, 29 Atl. 473, 25 L. R. A. 106; *Wright v. Lothrop* (1889) 149 Mass. 385. But on a state of facts identical with that in the principal case, the Court of Civil Appeals of Texas held the counsel's statement absolutely privileged. *Connellee v. Blanton* (1914, Tex. Civ. App.) 163 S. W. 404.

PRIZE LAW—RETALIATORY ORDER IN COUNCIL OF BELLIGERENT—NEUTRALS MUST BEAR REASONABLE LOSSES.—A Norwegian vessel bound from Norway to Rotterdam with iron-ore briquettes belonging to neutrals but destined to Germany was stopped on the high seas and ordered to discharge her cargo in England. This action was taken under an Order in Council, issued in retaliation against Germany's war-zone decree, by which Order, without the establishment of a legal blockade, all trade to and from neutral ports in cargo bound to or from Germany was prohibited. The cargo having been sold and freight allowed, the neutral owners of the vessel instituted a claim for damages arising out of her alleged unlawful detention. *Held,* that the claim must be dismissed. *The Stigstad* (1918, P. C.) 35 Times L. R. 176.

See COMMENTS, p. 583, *supra.*

RELEASE—PERSONAL INJURIES—RELEASE OF MASTER AS BARRING ACTION AGAINST SURGEON.—The plaintiff suffered a rupture in his right groin while in the employ of the New York Central R. R. He consulted the defendant, who, mistaking the plaintiff for another of his patients, performed an operation on the left side. The plaintiff executed a release of his claim against the railroad, and later brought this action against the defendant for the unauthorized surgical operation. *Held,* that the plaintiff could recover, as the operation on the left side was a wholly wrongful, independent and intervening cause of action. *Purchase v. Seelye* (1918, Mass.) 121 N. E. 413.

Where the plaintiff has exercised due care in engaging medical attendants, the liability of the party who caused the original injury extends, not only to that injury, but also to negligence or lack of skill on the part of the attending surgeon, such maltreatment being "constructively anticipated" as a "rational result" of the original injury. *Hunt v. Boston Terminal Co.* (1912) 212 Mass. 99, 98 N. E. 786; *Pullman's Palace Car Co. v. Bluhm* (1884) 109 Ill. 20, 50 Am. Rep. 601. Hence a full release to the employer, without reservation, under the law as to joint tort-feasors bars an action against the surgeon. *Martin v. Cunningham* (1916) 93 Wash. 517, 161 Pac. 355. The principal case limits this